

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DAVID SCHICHMAN *individually and on behalf of*  
*all others similar situated,*

Plaintiff,

**REPORT & RECOMMENDATION**  
**14 CV 1681 (WFK)(LB)**

-against-

TTN, LLC; BIOCENTICA, LLC; LOUIS DECAPRIO;  
SCOTT STANWOOD; TODD STANWOOD;  
JOHN DOES 1-10; and JANE DOES 1-10;

Defendants,

-----X  
**BLOOM, United States Magistrate Judge:**

Plaintiff commenced this proposed class action on March 13, 2014. The Federal Rules of Civil Procedure provide that

If a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

FED. R. CIV. P. 4(m). In this case, the 120-day period to serve defendants expired on July 11, 2014. On July 25, 2014, the Court advised plaintiff that if he did not file proof of timely service by July 31, 2014, or show good cause why service had not been effected by July 11, 2014, the Court would dismiss this action without prejudice pursuant to Fed. R. Civ. P. 4(m). As of today, plaintiff has not filed proof of service on defendants and has not shown good cause why service was not timely effected. Thus, it is respectfully recommended that this action should be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

**FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b)(2) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. See also FED. R. CIV. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court. Any request for an extension of time to file objections must be made within the fourteen-day period. Failure to file a timely objection to this Report generally waives any further judicial review. Marcella v. Capital Dist. Physicians' Health Plan, Inc., 293 F.3d 42, 46 (2d Cir. 2002); Small v. Sec'y of Health and Human Servs., 892 F.2d 15, 16 (2d Cir. 1989); see Thomas v. Arn, 474 U.S. 140 (1985).

SO ORDERED.

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/S/  
LOIS BLOOM  
United States Magistrate Judge

Dated: August 13, 2014  
Brooklyn, New York